

Notice of Allowability

Application No.

10/777,105

Examiner

Vinh T. Luong

Applicant(s)

FUJIWARA, NOBORU

Art Unit

3682

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 12/27/06.
2. ☒ The allowed claim(s) is/are 1-10.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some* c) ☐ None of the:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).


* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____


Vinh T. Luong
Primary Examiner

1. A request for continued examination (RCE) under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on December 27, 2006 has been entered.

2. Claims 1-10 are allowed.

3. The following is an Examiner's statement of reasons for allowance: the claims are allowed due to, *inter alia*, the limitations: "a damper device (18) for applying the pedal reaction force to said operating pedal (16) on the basis of circulation resistance of a fluid sealed in said damper device (18) by being mechanically compressed or tensioned in accordance with the pedal operation of the operating pedal (16)" and "the spring member (20) being a coil spring (20) substantially concentrically disposed radially outward of the damper device (18) so as to surround the damper device (18)" (reference character added) in claim 1.

The closest prior art, Fabrice (EP 0 919 903 A1) teaches the damper 16, 20 and the spring 12. However, Fabrice does not teach or suggest the fluid sealed in the damper device 16, 20. If one seals Fabric's damper 16, 20, one would render Fabrice's damper to be inoperative for its intended design because the spring 12 would no longer rest on guide block 16. See paragraph [0019]+ on page 5 of the translation attached to the final rejection in the parent application on August 29, 2006. Moreover, assuming *arguendo* that there were a suggestion to seal the fluid in Fabric's damper 16, 20, however, there is no further suggestion to make Fabrice's spring 12 surrounding the damper 16, 20 after the damper 16, 20 is sealed as required by claim 1.

Art Unit: 3682

On the other hand, Gregor (EP 0 768 224 A1) teaches the sealed damper 10 and the spring 40. However, there is no suggestion to dispose the spring 40 radially outward of the damper device 10 so as to surround the damper device 10 as claimed. To the contrary, Gregor's spring 40 is inside the damper as seen in Figs. 3 and 4. Thus, the spring 40 is a part of the damper. Meanwhile, Applicant's claim 1 requires the damper and the spring to be separate elements.

In summary, the claims are allowed because none of the cited references teach or suggest all of the limitations recited in claim 1.

Any comments considered necessary by Applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

4. Claim 1 is generic and allowable. Accordingly, the restriction requirement as to the encompassed species is hereby withdrawn and claims 5, 7, and 10, directed to the nonelected species are no longer withdrawn from consideration since all of the claims to the nonelected species depend from or otherwise include each of the limitations of an allowed generic claim.

In view of the above noted withdrawal of the restriction requirement as to the linked species, Applicant is advised that if any claim(s) depending from or including all the limitations of the allowable generic linking claim(s) be presented in a continuation or divisional application, such claim(s) may be subjected to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Once a restriction requirement is withdrawn,

Art Unit: 3682

the provisions of 35 USC 121 are no longer applicable. See *In re Ziegler*, 44 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP 804.01.

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Fujiwara (damper 26), Yoshinori et al. (damper 14), and Showa (damper 6).

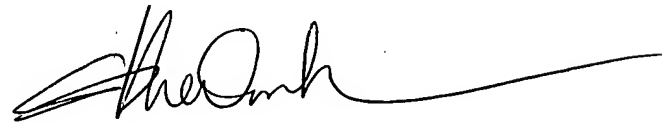
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vinh T. Luong whose telephone number is 571-272-7109. The examiner can normally be reached on Monday - Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Ridley can be reached on 571-272-6917. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Luong

January 30, 2007



Vinh T. Luong
Primary Examiner